APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/002,990	01/05/1998	THEODORE D. WUGOFSKI	450.219US1	8453

30408   7590   04/28/2003

GATEWAY, INC.
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EXAMINER
SALCE, JASON P

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *10-22 and 28-39* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *10-22 and 28-39* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6) ☐ Other: .

DETAILED ACTION

Terminal Disclaimer

1.   The terminal disclaimer applicant discloses has been sent with the amendment

dated 2/10/03 has not been received. The double patenting rejection therefore stands

until a proper terminal disclaimer is submitted.

Response to Arguments

2.   Applicant's arguments with respect to claim 10-22 have been considered but are

moot in view of the new ground(s) of rejection.

Examiner concedes that claims 10-13 were not properly addressed in the

previous office action. However, a terminal disclaimer in regards to claims 10-15 and

17 was never received, therefore the rejection stands, and this action is made final.

Examiner also notes that independent claim 14 has been amended in two ways.

Applicants states that claim 14 has been amended to recite "signals" rather than

"sources" for clarity, however, claim 14 also adds the limitation "of a parameter for

controlling said output device", which changes the scope of the claim. Therefore, a new

grounds of rejection is warranted on independent claim 14 and all claims dependent

thereof. Therefore, this action is made final.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3.   Claims 10-15, and 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 11-12, and 15-18 of U.S. Patent No. 6,038,614 (Chan et al.). Although the conflicting claims are not identical, they are not patentably distinct from each other (see table and discussion below).

Instant Application 09/002,990	Patent 6,038,614

10. A computer-readable medium containing computer instructions and data for carrying out the steps of:
    associating a value of a setting with each of a plurality of media input signals in a multimedia system;
    selecting one of said media input signals for presentation to a user of said system; and
 	
    presenting said one media input signal to said user with the value of said setting associated with said one media input signal.
	15. A computer-readable medium having stored therein instructions and data for performing the method of:
	    receiving settings for controlling the presentation of media from said selected channels;
	    selecting among a plurality of media channels from sources in a multimedia system;
	    controlling the presentation of media from said channels individually in response to said settings

11. A medium according to claim 10, wherein said associating step further associates a plurality of settings with each of said media input signals.	16. wherein said data structure is a table having a plurality of entries corresponding to said channels. (Therefore, the settings that are stored relate to the media input signals)
12. A medium according to claim 11, further comprising a data structure for holding said values for all of said settings, said structure having a separate entry for each of said media input signals.	15. recording said settings in a data structure in said system 16. (dependent on 15) wherein said data structure is a table having a plurality of entries corresponding to said channels.
Claim 13 (obvious)	Obvious to provide a modification command
14. A method for controlling a multimedia	11. A method for controlling a multimedia

system configured to receive a plurality of multimedia input signals and present media from at least one of said input signals to a user through at least one output device, said method comprising:
    selecting one of said sources in response to a selection command to said system;
    presenting media from said one signal to said output device in accordance with at least one retrieved parameter value
	system having a plurality of multimedia sources, comprising:
	    selecting among a plurality of media channels from said multimedia sources;
	    receiving settings for controlling the presentation of media from said selected channels;
	    controlling the presentation of media from said channels individually in response to said settings whenever said channels are selected;

retrieving, from a table of parameters associated with said sources, at least one parameter value corresponding to said one source	12. wherein said settings are received from said data structure
Claim 15 (obvious)	Obvious to store multiple values in a data structure (it has already been established that values stored in the data structure are related to the media sources/inputs signals)
17. receiving a selection code from said user representing said predetermined one signal; switching said one input signal to said one output device.	See selecting and controlling means in claim 11.
Claims 23-25, and 27	Covered by claims 1-2. (see Above)

As shown in the table above, claims 10-15, and 17 are not patentably distinct because they are anticipated by the '614 patent.

Claim 13 corresponds to instant application claim 10, and provides a further limitation of receiving a modification command to modify the value of a setting for one media signal. It would have been obvious to provide a modification command (for controlling the presentation as discussed in instant application claim 15) in the '614 patent so that a user can control the aesthetic aspects of the media input signals selected for display on the common output device.

Claim 15 corresponds to instant application claim 15, and provides a further

limitation of storing multiple values in the parameter entries in the data structure for

each of the different media signals. It would have been obvious to store multiple values

in the data structure (which stores all values related to media input signals) for the

purpose of providing the user with access to multiple picture and audible adjustment

options on the common output device.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 10-22 and 28-39 are rejected under 35 U.S.C. 102(e) as being clearly

anticipated by Williams et al. (U.S. Patent 5,945,988).

Referring to claim 10, Williams teaches associating a value of a setting (volume

for example) with each of a plurality of media input signals in a multimedia system (see

that the values of a setting(s) are stored in a user profile database, which stores setting

values for different components in a multimedia (convergence, see Column 3, Lines 24-

27) system disclosed at Column 5, Lines 40-47 (for a television/monitor 102), Column 6,

Lines 8-13 (for a computer), and Column 6, Lines 13-16 (for audio components)).

Therefore, multiple values of settings can be stored in regards to different components of an entertainment system.

Williams also teaches selecting one of said media input signals for presentation to a user of said system (see wireless communication transmitter for communicating with the system components at Column 4, Lines 11-19).

Williams also teaches presenting said one media input signal (channel 2 from television source) to said user with the value of said setting (moderate volume) associated with said one media input signal (see example of "Joe User" choosing a television program (channel 2), where the system controller 104 references a profile database for "Joe User" and determines that channel 2 is enjoyed with a moderate volume at Column 5, Lines 47-51). The examiner notes that this functionality works across all multimedia system components (further see Column 5, Lines 53-67 and Column 6, Lines 1-16).

Referring to claim 11, Williams discloses a plurality of settings with each of said media input signals (in addition to "moderate volume" settings for the television/monitor 102 can include "sports-type programming", "no blocking", and "no supplemental programming requested" disclosed at Column 5, Lines 51-53).

Referring to claim 12, Williams discloses a data structure for holding said values for all of said settings (see user profile database 700 in Figure 7), and said structure having a separate entry for each of said media input signals (note that each column of the user profile database 700 in Figure 7 represents a different media input signal (television, computer, or audio components)).

Referring to claim 13, Williams discloses receiving a modification command from said user (see Column 7, Lines 52-57). Williams also discloses modifying the value of said setting for only said one media signal (see updating "appropriate" records of the user profile at Column 7, Lines 57-62).

Referring to claim 14, Williams discloses selecting one of said signals (see Column 3, Lines 40-44 for system components) in response to a selection command to said system (see wireless communication transmitter for communicating with the system components at Column 4, Lines 11-19).

Williams also discloses retrieving, from a table of parameter entries associated with said signals ("TELEVISION", "COMPUTER", and "AUDIO COMPONENTS" in user profile database 700 of Figure 7), at least one value of a parameter for controlling said output device (Joe User's volume disclosed at Column 5, Lines 49-51) and corresponding to said one selected signal (television/monitor 102 and Column 5, Lines 40-42).

Williams also discloses presenting media (television programming) from said one signal (television signal, see Column 12, Lines 52-55) to said output device (actual television display 518) in accordance with at least one retrieved parameter ("VOL" in Figure 7). See Column 5, Lines 49-51.

Referring to claim 15, Williams discloses wherein each of said parameter entries holds multiple values ("CH", "VOL", "GENRE", etc. in Figure 7) each corresponding to a different presentation of media from said signals (different volume settings, and different television channels shown in Figure 7).

Referring to claim 16, Williams discloses that a first group of parameter entries ("TELEVISION") controls the presentation of media from a first output device (television/monitor 102, see default settings at Column 7, Lines 3-9), and a second group of said parameter entries ("AUDIO COMPONENTS") controls the presentation of media from a second output device (audio/video tuner and amplifier 110, see Column 7, Lines 9-11). The examiner notes that these citations disclose that the television/monitor 102 is linked to the "TELEVISION" parameter entries in the user profile database, and the audio/video tuner and amplifier 110 is linked to the "AUDIO COMPONENT" parameter entries.

Referring to claim 17, Williams discloses receiving a selection code from said user representing said one signal (see Column 3, Lines 60-63 for system components and wireless communication transmitter for communicating with the system components at Column 4, Lines 11-19).

Williams also discloses switching said one input signal to said one output device (see Column 4, Lines 8-19, which discloses that an I/O bus and system controller is used to control each entertainment device). Therefore, it is inherent that a user may switch the output from a television/monitor 102 to either a DVD player 114 or VCR 106 (see Column 3, Lines 40-48 for "routing" input and output signals through the I/O bus 108).

Referring to claim 18, Williams discloses receiving a parameter code for modifying the value of said parameter for only a particular one of said input signals (see

Column 7, Lines 57-60 for providing user inputs to the system). The user input is the
"parameter code".

Williams also discloses a modified value of said parameter in response to said
code (see logging the user inputs at Column 7, Lines 57-60). The logging of inputs is
the "modified value".

Williams also discloses storing said modified parameter value in an entry of said
table corresponding to said particular one input signal (see updating user preference
information found in appropriate records of the user profile at Column 7, Lines 61-62).

Williams also discloses presenting media from said selected signal to said output
device in accordance with said modified parameter value (see display device 518 being
a television at Column 12, Lines 30-31). It is inherent that the television will display the
updated data in the user profile 700, for example if a change in the volume setting is
selected, the next time the user views the particular, the volume might change from
moderate to low, based on the users previous configuration (see again Column 7, Lines
52-62 for updating the user profile 700).

Referring to claim 19, Williams discloses that the said particular one signal is one
of said signals currently selected in response to the said selection command (see Joe
User viewing either channel 2 or 7 at Column 5, Lines 49-55).

Referring to claim 20, see rejection of claim 13.

Referring to claim 21, Williams discloses each of said table entries holds multiple
values (different volumes) each corresponding to a different one of a plurality of

parameters ("CH" or "VOL") associated with the presentation of media from said signals ("TELEVISION" or "COMPUTER"). See Figure 7.

Referring to claim 22, Williams discloses wherein said parameter code further specifies a particular one of said parameters as said parameter to be modified (see Column 3, Line 64 to show that the wireless I/O device is a wireless keyboard). A keyboard has multiple keys; therefore it is inherent that a keyboard can send a particular parameter depending on which key is pressed. For example, remote controls that are well known in the art have a channel up or down key, or a volume up or down key.

Referring to claim 28, Williams discloses a user input device responsive to said user for selecting said one input signal (see element 132 in Figure 1 and Column 3, Lines 60-63).

Williams also discloses a switch for transmitting a selected one of a plurality of media signals to said output device in response to said selection command (see Column 4, Lines 8-19, which discloses that an I/O bus and system controller is used to control each entertainment device). Therefore, it is inherent that a user may switch the output from a television/monitor 102 to either a DVD player 114 or VCR 106 (see Column 3, Lines 40-48 for "routing" input and output signals through the I/O bus 108).

Williams also discloses a table having a plurality of entries ("VOL" or "CH") each holding a value of at least one parameter of said output signal ("+" or "-" volume levels under "VOL"), different ones of said entries being associated with different ones of said media signals ("TELEVISION" or "AUDIO COMPONENTS"). See Figure 7.

Williams also discloses a processor (element 104 in Figure 1) responsive to said selection command for accessing one of said values from said table (see Column 32-35), said one value being in an entry corresponding to said selected one input signal ("VOL" or "CH" in user profile database 700 in Figure 7).

Williams also discloses an output controller coupled to said output device (see wireless I/O device used to communicate with system components (television) at Column 4, Lines 11-15) for setting said at least one parameter of said output signal (volume) in accordance with said one value (audio and video components are configurable, and that configurable options are stored in user profile database 700 (Column 6, Lines 61-64)). An example for configuring audio and video components is also disclosed at Column 7, Lines 9-13 (note that the system controller 104 uses and stores these values).

Referring to claim 29, Williams discloses that the user input device is a keyboard having a number of buttons for producing said selection command (see wireless keyboard at Column 3, Line 64). It is inherent that a keyboard has more than one button.

Referring to claim 31, Williams discloses that the input device is further adapted to produce a parameter modification command (user inputs at Column 7, Lines 54-55), and wherein said table is adapted to store a modified value of said parameter (logs each input at Column 7, Lines 54-55) in one of said table entries so as to affect the value of said parameter only for one of said media signals associated with said one

table entry (see updating the user preference information found in the appropriate

records of the user profile (Column 7, Lines 61-62).

Referring to claim 32, Williams discloses that the input device has a number of

buttons for producing said parameter modification command (see rejection of claim 29).

Referring to claim 33, Williams discloses that the input device contains a wireless

link such that said parameter modification command can be performed by said user

from a position from which said output device is normally viewed (see rejection of claim

29, which also shows wireless link).

Referring to claim 34, Williams discloses that the parameter of said output signal

is audio volume (see Column 7, Line 59).

Referring to claim 35, Williams discloses that the parameter of said output signal

is color (see Column 7, Line 59).

Referring to claim 36, Williams discloses an output device (see element 518 in

Figure 5).

Referring to claim 37, Williams discloses that the output device is a video monitor

(see Column 5, Line 43).

Referring to claim 38, Williams discloses that the output device can be a sound

system (see Column 5, Line 42).

Referring to claim 39, Williams discloses a DVD player (see Column 3, Line 42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. in view of Official Notice.

Referring to claim 30, Williams discloses that the system includes a data processor coupled to the output device for presenting signals to be presented thereon (see element 502 in Figure 5 coupled to the display device 518 through a bus, which executes programming instructions at Column 12, Lines 60-61), and wherein said keyboard also includes an array of data-entry keys for the data processor (see rejection of claim 29 for a keyboard having multiple buttons or keys). Also note an operating system capable of executing a GUI interface (see Column 14, Lines 46-48). The examiner takes Official Notice that operating systems run on microprocessors in a computer system for the purpose of managing a multitude of functions across a computer system (both graphical and I/O based).

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vaughan et al. (U.S. Patent No. 6,229,575) discloses a computer controlled convergence device for controlling multiple entertainment devices.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

April 21, 2003

ANDREW FAILE
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